

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JOHN PEROTTI, et al.,
Plaintiffs,

vs

CHIEF INSPECTOR ROGER
WILSON, et al.,
Defendants

Case No. 1:18-cv-482

Black, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

On January 28, 2019, the District Judge adopted the Report and Recommendation of the Magistrate Judge finding this matter may proceed, in part, with John Perotti as the sole plaintiff. (Doc. 39).

On September 3, 2019, defendants filed a Notice of Suggestion of Death Upon the Record, indicating that the sole remaining plaintiff in this matter, John Perotti, passed away on July 20, 2019. (Doc. 42). On November 6, 2019, the Court ordered defendants to serve the Notice of Suggestion of Death Upon the Record on the successor representative of Mr. Perotti within 20 days and provide notice of such service on the record of the Court. *See* Fed. R. Civ. P. 25. (Doc. 44).

On November 21, 2019, a Notice of Suggestion of Death of plaintiff John Perotti was filed with the Court and served on Mr. Perotti's next of kin. (Doc. 45).

Rule 25 (a)(1) provides in part:


If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1).

More than ninety days have passed since the filing of the Notice of Suggestion of Death of plaintiff John Perotti and no motion for substitution has been filed with the Court.

Accordingly, it is hereby **RECOMMENDED THAT** this matter be **DISMISSED** and closed on the docket of the Court.

IT IS SO RECOMMENDED.



Karen L. Litkovitz, Magistrate Judge
United States District Court

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).